IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO. 2489 OF 2003

IN

SUIT NO. 2719 OF 2003

The Arshie Complex Co-op Hsg
Soc.Ltd and anr. .....Plffs.
vs.
Shabbir Patel and Ors. .....Defnds.

A L O N G W I T H
NOTICE OF MOTION NO. 3330 OF 2003
IN
SUIT NO. 2719 OF 2003

The Arshie Complex Co-op Hsg
Soc.Ltd and anr. .....Plffs.
vs.
Shabbir Patel and Ors. .....Defnds.

H.N. Thakore with Ms. Jyoti Ghag i/b.
Thakore and Jariwala
for the plaintiffs.
Virag Tulzapurkar with P.A. Kabadi
i.b. Doijode Associate
for defendant no.1.
Milind Vasudeo i/b. Kumana and Co.
for defendant no.2 and 3.

CORAM: S.U. KAMDAR, J.

DATE : 25th January,2006.

P.C. :.

1. By consent of the parties the following order is passed :

2. The ad-interim order dated 3.9.2005 is confirmed in so far as prayer clause a(iii) is concerned.

3. In so far as other prayers are concerned the members of the society in Buildings no. (A) and (B) situated on CTS no. 1200/2/1 will be entitled to use of health club and swimming pool. In so far as cafeteria is concerned the members of the building no. A and B will be entitled to visit the same and enjoy the facilities rendered by the contractor in the same manner as any other customer who visit the said cafeteria.

4. Learned counsel appearing for defendant no.2 and 3 states that the charges which will be levied for the purpose of using health club and swimming pool to the members of Building no. A and B will be the same charges which is levied on other members of the building i.e. Buildings No. C to G.

5. In so far as the question of management of health club and swimming pool is concerned the rights between the parties will be governed by the order passed by Kochar, J in Civil Application no. 7781 of 2001 in Appeal From Order no. 1414 of 2001 dated 16.11.1999. Motion is disposed off accordingly. No order as to costs.

6. In so far as Notice of Motion no. 3330 of 2003 is concerned the present notice of Motion is taken out under Order 39 Rule 2A. In my opinion the issue raised of breach of the injunction order requires to be determined only after leading oral

evidence. In that light of the matter the motion is adjourned to court for recording evidence.

7. Motion no. 3330 of 2003 is adjourned to court for recording evidence to be heard alongwith Suit.

sd/-

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